

# **REAFFIRMATION AGREEMENTS**

## **Federal Code, Interim Federal Rules and Interim Local Rule Changes**

- Federal Code – 11 U.S.C. § 524
- Interim Federal Rules: 4004 and 4008
- Interim Local Rules 4008-1

# Reaffirmation Agreement Forms

- **Cases filed on or after 10/17/05 -**  
Official Form B 240 (10/05)
- **Cases filed before 10/17/05 –**  
R.I. Bankr. Form U

# Review of Reaffirmation Agreements

**For cases filed on or after 10/17/05:**

**REAFFIRMATION AGREEMENTS  
INVOLVING REAL ESTATE AND/OR  
CREDIT UNIONS** do not require court  
approval, even when the debtor is pro se.



# Review of Reaffirmation Agreements (not involving real estate or credit unions)

## For cases filed on or after 10/17/05:

- The Court will review the reaffirmation agreement to determine **if a presumption of undue hardship arises** and whether the debtor has filed a **rebuttal**.
- A presumption of undue hardship arises if, the stated monthly income, minus monthly expenses, is less than the amount of the monthly payment on the Reaffirmation Agreement.
- Where the debtor is represented by an attorney, the Court may approve the Reaffirmation Agreement without a hearing.

# Review of Reaffirmation Agreements

(not involving real estate or credit unions)

- In all instances where the reaffirmation agreement is filed without an attorney's certification, the agreement will be treated as having been filed Pro Se.
- If filed Pro Se, Part E of the Reaffirmation Agreement entitled, "Motion For Approval" must be completed.
- A hearing will be held on all Pro Se Reaffirmation Agreements.

# DEFECTIVE Reaffirmation Agreements

- A Reaffirmation Agreement will be deemed **defective**, and will be stricken from the record if:
  - Official Form B 240 (rev. 10/05) is not used for cases filed ***on or after*** 10/17/05, or
  - The debtor or creditor fails to sign any of the required parts of the reaffirmation agreement or to adequately complete the document.

# Reaffirmation Agreement and Discharge

- Whenever a Reaffirmation Agreement is filed where the presumption of undue hardship has arisen, the discharge will not enter in the case until the Court either approves or disapproves the Reaffirmation Agreement.